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SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 33rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 20 February 1991, at 10 a.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)

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* The summary record of the first part (closed) of the meeting appears as document E/CN.4/1991/SR.33.

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The meeting was called to order at 11.25 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(b) SITUATION OF HUMAN RIGHTS IN OCCUPIED KUWAIT (agenda item 12) (E/CN.4/1991/3, 4, 27, 29-31, 33 and Add.1, 34, 37, 69, 70 and 74; E/CN.4/1991/NGO/5 and 35; S/21907; A/45/567, 578, 607, 630, 664 and 697; E/CN.4/1990/10, 13, 22 and Add.1, 24-26, 28 and Add.1)

1. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda item 12, recalled that consideration of the question of the violation of human rights and fundamental freedoms in any part of the world was an essential part of the Commission's work. Over the past 10 years, the Commission had established new mechanisms which would enable it to monitor any reported violation of the internationally recognized human rights brought to its attention, particularly those protected by the International Bill of Human Rights. In doing so, the Commission had set up non-conventional procedures flexible enough to confront any new situation, emphasizing their humanitarian character, and had complemented in an effective way the work already performed by the different treaty bodies. In order to dispose of the necessary factual information required for an objective and impartial consideration of that question, it had designated a number of special representatives or rapporteurs and given each a mandate to report on situations in particular countries or on thematic issues.

2. Under sub-item 12 (c), the Commission would study, on a confidential basis, the report of its Working Group on Situations dealing with situations which appeared to reveal a consistent pattern of gross violations of human rights, as provided in Commission resolution 8 (XXIII) and Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII).

3. In addition, the Commission would examine, in public debate, the reports by the Special Rapporteur on the situation of human rights in Romania (E/CN.4/1991/30), by the Special Rapporteur on the situation of human rights in Afghanistan (E/CN.4/1991/31), by the Independent Expert on the human rights situation in Haiti (E/CN.4/1991/33 and Add.1), by the Special Rapporteur on the situation of human rights in El Salvador (E/CN.4/1991/34) and by the Special Representative of the Commission on the human rights situation in the Islamic Republic of Iran (E/CN.4/1991/35). He pointed out that the Special Rapporteurs had again been able to visit Afghanistan, El Salvador, the Islamic Republic of Iran, Haiti and Romania and to hold extensive talks with the authorities concerned as well as with interested non-governmental organizations and individuals. They had even been able to visit Afghanistan, Haiti and Romania twice during the period under review.

4. The Commission also had before it the report of the Special Rapporteur on summary or arbitrary executions (E/CN.4/1991/36), a report by the Secretary-General on his ongoing contacts with the Government of Cuba (E/CN.4/1991/28), the report of the Secretary-General on the situation of human rights in Albania (E/CN.4/1991/29) and a note by the Secretariat on the situation of human rights in East Timor (E/CN.4/1991/37), prepared pursuant to Sub-Commission resolution 1990/15.

5. Turning to agenda item 12 (a), he recalled that the Commission had been considering the question of human rights in Cyprus since 1976, and that at its current session it would have before it the report by the Secretary-General on the situation of human rights in Cyprus, submitted pursuant to Commission decision 1990/104 (E/CN.4/1991/27).

6. He also recalled that, at the recommendation of the Bureau, the Commission had decided at its second meeting, on 29 January 1991, to include a new sub-item 12 (b) entitled "Situation of human rights in occupied Kuwait".

7. Mr. ERMACORA (Special Rapporteur on the situation of human rights in Afghanistan), introducing his report (E/CN.4/1991/31), said that he had the impression that the Gulf war and the many other questions relating to human rights considered by the Commission had almost led to the situation of the Afghan people being forgotten. However, they deserved particular attention, from the political, humanitarian and human rights point of view. While it was true that the withdrawal of the Soviet troops had allowed the Afghan people to exercise its right to self-determination, there were still more than 5 million Afghan refugees who had not been able to do so. Rocket attacks were an everyday occurrence against the civilian population living in Afghanistan and in border areas of Pakistan, and cluster bombs were used by one side and Scud missiles were launched by the other against the population. Thousands of political prisoners were still in Afghan jails and an unknown number of prisoners were in the hands of the opposition forces in unidentified locations. It was clearly impossible to exercise the right to self-determination in such circumstances.

8. The fate of some 10,000 disappeared persons and of the "orphans" living outside the country remained to be clarified. The armed conflict was continuing in Afghanistan, and still had international dimensions, as there were thousands of Afghan refugees and weapons continued to be supplied from abroad.

9. He recalled that the report before the Commission was his seventh on the situation of human rights in Afghanistan, and that he had visited the country for the thirteenth time, in accordance with his mandate, in order to provide the General Assembly and the Commission on Human Rights with as reliable and complete information as possible. He thanked the Governments of Afghanistan and Pakistan and the various United Nations agencies and non-governmental organizations present in the region, and in particular the International Committee of the Red Cross, for all the help they had provided. He hoped that the Governments concerned recognized that the Special Rapporteur's mandate was not to interfere in their internal affairs, but to try to help them. For his part, he had spared no effort to obtain as much information as possible on the current situation of human rights in Afghanistan: he had visited refugee camps and hospitals in Pakistan and Afghanistan, observed de-mining operations, visited prisons in Kabul and, for the first time, had visited regions that were not under the complete control of the Government of Afghanistan.

10. He said that the situation of Afghan refugees remained unchanged. After the outbreak of renewed hostilities, many families had sought refuge in Pakistan. In that connection, he wished to correct an error in paragraph 34 of his report: 5,600, not 56,000, persons had taken refuge in Pakistan. However, those refugees were apparently returning to Afghanistan, a trend that

had been confirmed by several United Nations agencies as well as by the Governments of Pakistan and Afghanistan. The latter was attempting to assist them by providing them with legal and material assistance. For their part, the opposition parties were against the repatriation of refugees so long as the political and military situation in Afghanistan remained unchanged. He pointed out that he had annexed to his report a proclamation issued by the Mujaheddin commanders against the process of repatriation and a notice giving information on the pilot project for repatriation, issued jointly by the Government of Pakistan and the Office of the United Nations High Commissioner for Refugees. Furthermore, the repatriation of refugees was hampered by current climatic conditions in the country as well as by the minefields and attacks by armed groups. Details of the extremely precarious living conditions of the refugees in the camps in Pakistan appeared in document E/CN.4/1991/31.

11. He recalled that the human rights situation in Afghanistan had to be seen against the background of the armed conflict, as the opponents to the régime refused any dialogue with the representatives of the current Government.

12. Persons suspected of being opponents of the Government continued to be arrested and imprisoned. In spite of periodic amnesty decrees, the number of prisoners remained stable. He pointed out that the figures contained in his report had been transmitted to him by the Government of Afghanistan and the International Committee of the Red Cross. He highlighted the role played by ICRC, which provided medical assistance to prisoners and attempted to elucidate their fate. Unfortunately, its representatives were not authorized to visit the hundreds of prisoners detained on remand, a situation which, in his view, required clarification.

13. The opposition claimed that, the number of prisoners in Afghanistan was much higher than the figures provided by the Government to ICRC and to the Special Rapporteur, who had been unable to verify them. There was the same discrepancy with regard to the number of "orphans" living outside Afghanistan, whose number was alleged to be higher than the 3,000 mentioned in document E/CN.4/1991/31.

14. The conflict was one of the principal causes of non-respect for human rights, which were, however, guaranteed by the Constitution of Afghanistan, in conformity with the international instruments. The armed conflict still caused thousands of victims, even though there had been a noticeable decline in the numbers of wounded. The only reliable figures regarding the number of civilian victims were those for the numbers killed in terrorist attacks (para. 69 of the report). As he had been unable to obtain any reliable information on the fate of prisoners, including Soviet citizens, held by opposition groups, action on the part of the United Nations and the ICRC was indispenable.

15. United Nations bodies had adopted numerous resolutions calling for the right to self-determination of the Afghan people. The obstacle constituted by the presence of foreign troops in the country had been removed with their withdrawal in February 1989. Certain trends might bring about a situation that would allow self-determination, or a form of internal self-determination. However, although the Constitution of Afghanistan provided for free and general elections, they could not be held as long as one third of the Afghan

population was living abroad. A selection procedure had been initiated by the "Afghan Interim Government", which, however, excluded women and refugees. Lastly, in the opinion of those commanding the operations, the objective of the armed conflict was self-determination.

16. He nevertheless hoped that, with the assistance of the United Nations, the conflict might be resolved by peaceful means. In the meantime, the Commission should remain vigilant with regard to the situation of human rights in Afghanistan.

17. Mr. BLACKWELL (United States of America) said that human rights were inherent in civilization. It was clear that nations which respected the human rights of their own citizens did not assault neighbouring countries or seek to seize their lands and livelihood. The relationship between respect for human rights and the search for a new world order, based on the peaceful settlement of disputes, was clearly reflected in Article 55 of the Charter of the United Nations, which linked peaceful relations among nations with universal and effective respect for human rights.

18. The United Nations Commission on Human Rights was the pre-eminent international body responsible for defending and promoting human rights and fundamental freedoms. Even though regional institutions had a role to play in that area, it was not possible to tolerate injustices in one place and to claim to be concerned with them elsewhere. The Commission, which operated under the Charter of the United Nations and the Universal Declaration of Human Rights, had a role to play throughout the world.

19. In that same spirit of universality and balance, the United States Department of State prepared an annual report, for submission to the Congress, on the human rights situation in all countries, whether they were friendly to the United States or not. The United States did not, however, attempt to evaluate its own situation, nor did it claim to have attained perfection in that problematic area. Even though, on 4 July 1776, the United States Declaration of Independence had proclaimed that all men were created equal, it had taken almost 100 years to put that principle into effect, after a bloody civil war between the partisans of the Union and those of slavery. As the great-great-grandson of a former slave, he was particularly sensitive to the question of human rights.

20. In the 45 years since the signing of the Charter of the United Nations and the six months since Iraq had assaulted Kuwait, the relationship between world peace and respect for human rights had become obvious. Nevertheless, the relationship had to be underscored, as on 2 August 1990, Iraqi troops had initiated their terror against the innocent people of a hitherto peaceful and prosperous country.

21. The many atrocities committed by Iraqi soldiers in Kuwait included the execution of children in front of their families and the systematic pillaging of Kuwait's medical facilities, which had led to the deaths of many patients, including babies, from lack of care. In Iraq itself, Saddam Hussein's régime still used the same abominable and systematic practices - torture, summary executions, disappearances, arbitrary detentions and brutality. It was to be hoped that the forthcoming liberation of Kuwait would also help to create increased respect for the rights of the Iraqi people.

22. As in Iraq and occupied Kuwait, dictatorial régimes could persist only by resorting to systematic repression and brutality, in defiance of the Universal Declaration of Human Rights and of other internationally accepted standards. Self-appointed "guardians" or "guides" permitted the exercise of certain rights, in small doses, and only as long as the ruling class found it convenient.

23. That was the case in Cuba. The previous year, in resolution 1990/48, the Commission had called upon the Government of Cuba to cease its reprisals against human rights activists and to provide a response to the many questions put by the group which had visited Cuba in 1988. The Secretary-General had also been requested to communicate to the Commission the results of his ongoing contacts with the Government of Cuba. When the resolution had been adopted, President Fidel Castro had told the press not to imagine that Cuba would obey one word. At the same time several human rights monitors in Cuba had been besieged in their home by demonstrators in a carefully orchestrated demonstration. Such disdain for the Commission was not new. Already, in 1988, the Cuban authorities had prevented the group from visiting Quivican prison, on the pretext that it was closed.

24. The United States Government welcomed the efforts the Secretary-General had made to perform the responsibilities assigned to him by the Commission, although it was clear that Cuba had not responded to the questions put by the group, and had not ended the repression directed against human rights activists. A recent report by the non-governmental organization Americas Watch revealed that Cuban laws continued to curtail the fundamental rights set out in the Universal Declaration of Human Rights. There were no legal institutions independent of the Government and the Communist Party that could ensure respect for those rights, nor were there a free press, opposition political parties, an independent judiciary, independent labour unions and legally recognized human rights organizations. Two other non-governmental organizations, Amnesty International and Freedom House, had also recently published reports documenting continuing human rights violations in Cuba. In a world that was progressing towards democracy and respect for human rights, Cuba was increasingly isolated in its refusal to adhere to internationally accepted standards.

25. With regard to Iran, the Special Rapporteur had informed the General Assembly of cases of torture, summary execution and imprisonment on political grounds. His report showed that government action to end such practices was clearly not effective enough. Discrimination against religious minorities, such as the Baha'i community, continued; the repression of the peaceful political opposition was unabated and also affected exiles, such as Professor Kazem Rajavi, a human rights activist, assassinated in Switzerland on 24 April 1990. However, the desire expressed by the Government of Iran to cooperate with the United Nations was an encouraging sign, and it was to be hoped that Iran would intensify its efforts to promote the effective enjoyment of human rights and fundamental freedoms and would duly investigate the abuses reported.

26. In China, although martial law had been lifted and the Government had shown a willingness to study the question of human rights, the latter were far from being respected. Pro-independence demonstrations, such as those in Tibet, or uprisings, such as that among Muslims in Xinjiang province, had been put down with great severity. Hundreds of persons arrested during the

pro-democracy demonstrations in 1989 were still in prison without having been charged, while other detainees appeared to have committed no other crime than the peaceful expression of political opinion. Moreover, reports also detailed the repressive control by the Government over religious, academic and trade union activity, and even the adoption of new laws to achieve that end.

27. In Myanmar, the expectations raised by the national elections that were to have led to a transfer of power to a civilian Government had been rapidly deflated, and the situation remained unchanged: Aung San Suu Kyi, Tin Oo and Kyi Maung, leaders of the National League for Democracy (NLD), had still not been freed, and some 50 elected members of the new National Assembly were being held. Moreover, there continued to be credible reports of torture in Myanmar's prisons.

28. Whatever the form taken by civil unrest or by political and social tensions, neither national order, let alone the new world order, could be built on random or indiscriminate violence; El Salvador, Guatemala, East Timor and Mauritania were cases in point. Lack of time prevented him from dwelling on that aspect, and he referred those who might like to have further information on the situation in those countries to his written statement.

29. The Universal Declaration of Human Rights emphatically established that "all human beings are born free and equal in dignity and rights" (art. 1) and that everyone was entitled to enjoy human rights and fundamental freedoms "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (art. 2). No individuals were more human than others, and civilization had no room for racism and discrimination. It was to be hoped that South Africa had resolutely set out along the path of progress and that human rights would shortly be fully complied with in the occupied Arab territories. A new world order must be built solely on tolerance and mutual respect.

30. The United States was following the conflict between the Baltic Republics and the Soviet Union with concern. Those Republics - whose incorporation into the Soviet Union had never been recognized by the United States - were fully entitled to seek to obtain self-determination, through peaceful negotiations with the Soviet authorities. The United States called on the Soviet Government to conduct a thorough investigation into the violations of human rights and fundamental freedoms that had resulted from the military and paramilitary action in those Republics and to bring those responsible to justice, as it had publicly committed itself to do. The Soviet Government should also honour its repeated pledges to refrain from the use of force and to conduct discussions with each of the Baltic States, so as to permit them to take their own decisions concerning self-determination.

31. Yugoslavia was wrestling with vexing issues related to its constituent peoples. In the view of the United States, the solution did not lie in intimidation or curbs on human rights, but in negotiations between democratically elected leaders.

32. In Cyprus, it was to be hoped that the efforts of the United Nations Secretary-General, which the Government of the United States resolutely supported, would lead to a solution acceptable to both parties, and thus to safeguarding the human rights of all the island's inhabitants.

33. Although there were undoubtedly black spots, there were also reasons for hope, particularly in Central Europe, the USSR, Nepal, Benin, Chile and Haiti, described in greater detail in his written statement. History was progressing in the right direction, as there could be no progress, whether national or international, without respect for individual rights. The new world order required respect for human rights and the peaceful settlement of disputes, as well as respect for international law.

34. After giving the names of victims of human rights violations in countries as diverse as Cuba, China, Kuwait, South Africa and Latvia, he called on the Commission to discharge its noble responsibility, as guardian of the world's conscience.

35. Mr. HJELDE (Observer for Norway), speaking in exercise of the right of reply on agenda item 10, apologized to the Kenyan delegation for having said, as a result of a typing error in paragraph 102 of the report by Mr. Kooijmans that rendered the name of Mr. Koigi wa Wamwere unrecognizable, that the Government of Kenya had not replied to the appeal sent to it by the Special Rapporteur on 16 October 1990. The Government of Kenya had indeed replied to that appeal, although it was hardly possible to consider its reply as satisfying and reassuring, as it did not provide the essential information requested by the Special Rapporteur in paragraph 10 of his report, regarding the authority responsible for the investigation, the persons questioned, the results of the medical examination and the identity of the person who had performed it. The Special Rapporteur had particularly stressed the need for an objective medical examination. There were unfortunately still reasons to fear that Mr. wa Wamwere and others might be subject to torture or ill-treatment.

36. Mr. LAGHMARI (Morocco), speaking in exercise of the right of reply, referred to a number of cases raised by the International Association of Democratic Lawyers (IADL). The representative of IADL had actually repeated the contents of a communiqué that contained errors and untruths, and was already out of date. She had spoken, in the future tense, of trials that had taken place in January. The charges made by her demonstrated her ignorance of the situation in Morocco, where, after and even prior to the publication of the communiqué, Parliament and various non-governmental organizations had appointed commissions to investigate the cases mentioned.

37. With regard to the sentences allegedly handed down against certain individuals because they had exercised their right to freedom of expression and to strike, it should be explained that the persons concerned had been convicted for ordinary law offences - arson, theft, destruction of property, etc. - and not for having exercised constitutionally guaranteed rights. Moreover, the sentences had been handed down after legal proceedings that were perfectly lawful and in conformity with the law. He cited as proof the fact that a member of the General Union of Moroccan Workers (UGTM) had been found innocent.

38. Mr. AL-KADHI (Iraq), speaking in exercise of the right of reply, said that the representative of the United States had assumed the role of world human rights advocate, whereas in fact it was his country that stood accused as a criminal, with its power-politics and pursuit of hegemony. Mr. Blackwell had himself said that the existence of civil rights was one of

the hallmarks of civilization, and no one would contradict him on that point. He asked whether United States civilization permitted the murder of babies or old persons. Since the beginning of the war, 20,000 women and children had been killed in Iraq. With regard to the provisions of the Charter of the United Nations for the pacific settlement of disputes, it was the United States itself which was breaching them in order to be able to continue its aggression against Iraq, in its own interest.

39. According to the representative of the United States, Iraq had allegedly committed crimes against Kuwaiti children. However, the relationship between Kuwait and Iraq did not concern the United States and the statement by the representative was the reflection of his country's policy of hegemony.

40. Mr. WANG Xuexian (China), speaking in exercise of the right of reply, categorically rejected the accusations made against his country by the representative of the United States, and reserved the right to again exercise his right of reply at a more appropriate moment. If Mr. Blackwell were to be believed, human rights were flouted everywhere except in the United States; however, a look at the history of the United States, where the Indians had been systematically massacred, and the Blacks had been enslaved, together with the more recent events in Panama, where human rights had been trampled underfoot, showed that human rights violations also occurred in the United States. He had lived in the United States for six and a half years, and could say much on the subject. Mr. Blackwell should acquaint himself with what was happening in his own country, before accusing others.

STATEMENT BY MR. NGIMBI, DEPUTY-PRIME MINISTER, SPECIAL ADVISER ON SECURITY MATTERS TO THE PRESIDENT OF THE REPUBLIC OF ZAIRE

41. Mr. NGIMBI (Zaire) said that his country was well aware that respect for people and for their dignity had become an absolute necessity at the present time. For some years, Zaire had been making considerable efforts to protect human rights in a spirit of total cooperation with the Commission in particular, but also with the other humanitarian bodies, non-governmental organizations such as Amnesty International and African institutions.

42. However, it should be stressed that human rights were not protected by resolutions and long speeches, but on the spot and by practical measures, which was why Zaire submitted to the United Nations the relevant reports in that field without any delay. In the same spirit of cooperation and transparency, non-governmental humanitarian organizations, such as the International Committee of the Red Cross and Amnesty International, could contact all the country's authorities without constraint and visit places of detention, and even put forward criticism in order to improve the situation. All that showed that Zaire had nothing to hide and that even under the one-party political system, which had been in effect in Zaire until 24 April 1990, Zaire had been determined to promote human rights and freedoms, with the efforts that entailed.

43. However, it had to be recognized that since 24 April 1990 Zaire had taken a further and important step in the area of pluralist democracy and fundamental rights, by changing over from a single party to a multi-party system. Since that date, the political landscape had changed completely with the abolition of the leading role of the former single party, the Popular Movement for the

Revolution, henceforth separated from the State, the rehabilitation of the legislative, executive and judicial branches, the depoliticization of the civil service, the territorial administration, the armed forces and the security services, the introduction of trade union pluralism, the review of the Constitution and the establishment of a commission to draw up the new Constitution of the Third Republic, and, a matter of lesser importance, freedom vis-à-vis mode of dress. The Head of State was no longer the head of the Executive, as there was now a Prime Minister, and the President acted as the supreme arbitrator and guarantor of national independence and territorial integrity.

44. Furthermore, basic texts had been drawn up, the Constitution had been revised and a Law adopted on political parties, which were beginning to develop. To date, 69 of the 119 political parties that had filed an application had already been registered and the other applications were under examination. Thirteen trade unions had already been authorized.

45. The most important innovation was, nevertheless, the elections and the Constitutional referendum. Eleven persons had so far announced their intention to stand for election as President of the Republic. As far as the legislative elections were concerned, the political parties would appeal for voters' ballots with requisite fairness, transparency and trustworthiness. Furthermore, each party would be able to designate national observers, and, if necessary, request the assistance of foreign observers to supervise the ballot.

46. A glance at the Zairian press revealed the existence of the same freedom of expression as that enjoyed by newspapers as well known as the Washington Post, Le Soir or Le Canard enchaîné. It was sufficient to read the headlines of the daily newspapers published in Zaire by Zairians.

47. Moreover, strikes and protest movements were numerous in Zaire, and 19 strikes had taken place since 24 April 1990. The authorities showed an understanding of such protests and allowed them, provided they were conducted in a legal context.

48. Such was the policy followed by Zaire to protect human rights. For that reason, he was particularly gratified that justice had been done to his country, in the context of the confidential procedure. Even the incidents at Lubumbashi University had not affected that state of affairs. An investigation into those incidents had been assigned to parliamentarians who had carried out a scrupulous analysis. It was now for the courts to establish the truth, and the long awaited trial was to begin on 25 February 1991. It seemed appropriate to recall, in that connection, the solemn statement by the President of the Republic of Zaire, who had invited the Special Rapporteur on summary or arbitrary executions to attend the trial. Some time ago, another Special Rapporteur of the Commission, Mr. Kooijmans, had been invited to carry out a mission in Zaire and his highly critical report had helped the country's authorities to rectify the situation.

49. To conclude, Zaire called for genuine and continuing cooperation with all humanitarian organizations, in the interests of respect for human rights, democracy and political pluralism.

The meeting rose at 1.10 p.m.